# CONRADO R. ISIDRO, PETITIONER, VS. NISSAN MOTOR PHILIPPINES, INC., RESPONDENT.

*G.R. No. 136500. December 03, 1999*

Ponente: PARDO, J.

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**PARDO, J.:**

The case before the Court is an appeal via certiorari from the orders[1] of the Regional Trial Court, Branch 81, Quezon City[2] dismissing the complaint below on the ground that the action has prescribed.

The facts are as follows:

On December 21, 1995, petitioner bought from respondent a brand new Nissan Sentra with an express manufacturer's warranty against hidden defects for a period of 24 months or 50,000 kilometers, whichever comes first.[3]

On August 31, 1998, or two years and nine months after delivery of the car, petitioner filed with the Regional Trial Court, Quezon City, assigned to Branch 81, a complaint against respondent for breach of warranty.[4]

On October 7, 1998, respondent filed with the trial court a motion to dismiss the complaint alleging that petitioner's cause of action is barred by the statute of limitation under Article 1571 of the Civil Code.[5]

On October 9, 1998, petitioner filed with the trial court an opposition to the motion to dismiss pointing out that Article 1571 applies only to implied warranties and not to express warranty.[6]

On November 11, 1998, the trial court issued an order dismissing the complaint based on the ground that plaintiff’s cause of action has prescribed since the complaint was filed more than two years after delivery of the car which is the period during which respondent expressly warranted that it would repair/replace defective parts of the car.[7]

On November 20, 1998, petitioner filed with the trial court a motion for reconsideration of the dismissal stating that the prescribed period of warranty is four years in case of rescission and ten years in case of specific performance.[8]

On December 2, 1998, respondent filed with the trial court an opposition to the motion for reconsideration.[9]

On December 9, 1998, the trial court denied the motion for reconsideration.[10]

Hence, this petition.[11]

On February 3, 1999, the Court required respondent to comment on the petition within ten (10) days from notice.[12]

On March 8, 1999, respondent filed its comment.[13]

On September 6, 1999, we gave due course to the petition.[14]

At issue is whether or not petitioner's action for enforcement of the manufacturer's express warranty covering the subject motor vehicle has prescribed.

We agree with the trial court that petitioner's action has prescribed.

The manufacturer's warranty covering the subject motor vehicle was for defective parts over a period of twenty four (24) months or fifty thousand (50,000) kilometers, whichever comes first. Where there is an express warranty in the contract, as in the case at bar, the prescriptive period is the one specified in the express warranty, if any.[15]

The action to enforce the warranty was filed two and a half years from the date of the purchase or delivery of the vehicle subject of the warranty.

Clearly, the action has prescribed. The period of the guarantee under the express warranty has expired.

WHEREFORE, the Court hereby DENIES the petition for review on certiorari of the orders of the Regional Trial Court, Quezon City, Branch 81, dated November 11, 1998, and December 9, 1998, in Civil Case No. Q-98-35408, and AFFIRMS the aforesaid orders.

No costs.

**SO ORDERED.**

Davide, Jr., C.J., (Chairman), Puno, Kapunan, and Ynares-Santiago, JJ., concur.

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[1] In Civil Case No. Q-98-35408, orders dated November 11, 1998 and December 9, 1998, Petition, Annexes “G”and “J”, Rollo, pp. 46-47, 55-56.

[2] Presided over by Judge Wenceslao I. Agnir, Jr., now Associate Justice, Court of Appeals.

[3] Petition, Rollo, on p. 8.

[4] Petition, Annex “A”, Rollo, pp.17-24.

[5] Petition, Annex “B”, Rollo, pp. 25-34.

[6] Petition, Annex “C”, Rollo, pp. 35-37.

[7] Petition, Annex “G”, Rollo, pp. 46-47.

[8] Petition, Annex “H”, Rollo, pp. 48-50.

[9] Petition, Annex “I”, Rollo, pp. 51-54.

[10] Petition, Annex “J”, Rollo, pp. 55-56. Notice of this order was received by respondent on December 16, 1998 (See return card, RTC Record, reverse side of p. 57).

[11] Petition filed on January 5, 1999, Rollo, pp. 7-16. The petition was timely filed with the Supreme Court, that is, within fifteen (15) days from notice of denial of petitioner’s motion for reconsideration filed in due time (Rule 45, Section 2, 1997 Rules of Civil Procedure).

[12] Rollo, p. 56-B.

[13] Rollo, pp.59-65.

[14] Rollo, pp.85-86.


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[15] Engineering & Machinery Corporation vs. Court of Appeals, 252 SCRA 156, 166 [1996].

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